



VIRGINIA COMMISSION ON YOUTH

Study on the Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities – Year Two

September 8, 2015 – 1:00 p.m. to 4:00 p.m.
Senate Room 3, The Capitol

Meeting Notes

Advisory Group Members:

The Honorable Les Adams, The Honorable Richard “Dickie” Bell, Lisa A. Bennett, Beau Blevins, III, Kara Brooks, Christine Cadwallader, Sean Campbell, John Eisenberg, William Elwood, Royal Gurley, Pam Kestner, Kevin Kirst, Donna Krauss, Angela Langrehr, Heidi Lawyer, Janet Lung, Catherine Lochner, Tracie L. Mauch, Brady Nemeyer, Ty Parr, Jeff Pennington, Kristi M. Schabo-Putney, Laura Sellers, Thomas Smith, Sara Staton, Matthew Stanley

Guests/Presenters:

Bruce Benson, Sue Clark, Victor Evans, Pat Haymes, Jim McGee, Jenny Oxendine, Anthony Romanello, Lloyd Tannebaum

General Assembly Staff:

Susan Hogge, Susan Massart

Virginia Commission on Youth Staff:

Amy Atkinson, Will Egen, Leah Mills

Welcome and Introductions

The Honorable Delegate Richard “Dickie” Bell

Amy Atkinson

Virginia Commission on Youth

Delegate Bell welcomed the Advisory Group members and guests and then introduced Delegate Adams. Delegate Adams thanked everyone for attending and working on the study. Delegate Bell then turned the meeting over to Amy Atkinson to discuss the plans for the meeting.

Ms. Atkinson stated that House Joint Resolution 196 (Adams) directed the Commission on Youth to examine the use of Children’s Services Act for At-Risk Youth and Families (CSA) for private day and private residential special education placements. Ms. Atkinson stated that the Commission is to complete its meetings by November 2015 during this second year and report recommendations prior to the 2016 General Assembly Session.

Ms. Atkinson reviewed the meeting handouts. She informed the Advisory Group that following this meeting, the Commission would make suggested modifications to the draft findings and recommendations. The draft recommendations, once reviewed by the Advisory Group, would then be made available for public comment through 5:00 p.m., Tuesday, October 13. The Commission is scheduled to vote on the recommendations at the Commission's October 20 meeting. She stated that public comment would also be accepted at the October 20 meeting. Ms. Atkinson noted that the recommendations would take the form of administrative actions (i.e. letters to agencies), budget language, and/or legislation. The adopted recommendations will guide staff during the 2016 General Assembly Session. Delegate Adams' legislation specified that the final report for the study would be completed by November 30th. Ms. Atkinson noted that, while the period was tight, staff was moving forward to ensure that the report was completed by the specified date.

Ms. Atkinson stated that the Advisory Group represented all impacted parties and it was the Commission's intent that by having all the parties work together, staff could submit recommendations for public comment and present sound recommendations so the Commission could adopt wise policy decisions.

Because there was a full agenda and if there was no objection, Ms. Atkinson stated that Ms. Mills would not present on the study overview to allow time for the other presentations and discussion. She stated that the full presentation was included in the members' packets and that staff would be happy to answer any questions about the presentation.

Special Education Services under the Children's Services Act

Brady Nemeyer, Program Consultant

Office of Comprehensive Services

Delegate Bell introduced Mr. Nemeyer and thanked him for attending. Mr. Nemeyer provided the Advisory Group with an overview of educational expenses covered by CSA. He informed the Advisory Group that there were three service categories that CSA funds for youth with disabilities eligible for special education services. The first is residential treatment services to meet the special education needs of students for youth with disabilities specified by the youth's individualized education program (IEP). The second is private day placements for children for purposes of special education. The third category is wraparound services for non-educational services provided in the home and community to prevent placement of a youth into a more restrictive setting. Mr. Nemeyer stated that localities have until September 30 to finalize their reports for fiscal year (FY) 2015. Therefore, the information he is providing to the Advisory Group has not yet been finalized.

Mr. Nemeyer stated that the CSA congregate care educational expenditure category was not solely for children with IEPs; this category also encompasses expenditures for youth placed into residential treatment for foster care services. In these cases, CSA funds the educational component, even if the child does not have an IEP. Accordingly, this is not an "apples to apples comparison". Comparing FY 14 and FY 15 expenditures, there was a \$2.7 million increase in private residential educational expenditures, which is a 7.5 percent increase. Mr. Nemeyer noted that this report was very fluid and changed hourly.

For private day placements, Mr. Nemeyer noted that there was a 12.6 million increase between FY 14 and FY 15, which accounted for an 11.7 increase. He stated that for wraparound services, also known as "services in the public school setting" service category, not directed by the IEP. There has been a \$64,000 increase for wraparound services between FY 14 and FY 15. This category is capped at \$2.2 million for CSA across the state. Some localities use this funding to prevent the youth from entering a more restrictive home, community, or school placement.

Overall, CSA predicts a \$27.1 million increase between FY 14 and FY 15 for both the state and local shares with a 7.1 percent increase. The Commonwealth's share, on average, is 65 percent.

Mr. Nemeyer stated that through the Transformation and all the changes through the Department of Social Services (DSS), residential and foster care numbers have decreased. Private day placements have been rising through the years, this is unchanged and this trend has continued. During the past several years, DSS residential placements for foster care youth have gone down. However, this past year, the numbers for residential placements have increased. In recent years, CSA has returned a significant sum of money to the general fund because it was unspent. This has not occurred this fiscal year because there has been an overall increase in the numbers for the majority of CSA categories, the largest being private day placements.

A question was asked as to why this was occurring. Mr. Nemeyer stated when localities submit requests for supplemental funding; a reason for the request is included. The items noted were the number of youth with an autism spectrum disorder as well as the schools being unable to serve these youth in the public school setting. Another member inquired whether the number of youth being served has increased. Mr. Nemeyer stated that the census data would be available at a later date. He also stated that there was an increase of the total number of CSA-eligible youth.

Mr. Eisenberg with the Virginia Department of Education noted that last year, there were over 1,200 additional students identified with autism spectrum disorder. Discussion followed regarding the requirements for class size and students with disabilities established by regulation. Mr. Nemeyer noted that CSA does not receive information by disability type. Questions were asked about areas of the Commonwealth to ascertain whether the increase in private day placements were in certain regions. Mr. Nemeyer noted that his Office was looking at localities that had higher expenditures in these categories. There was additional discussion whether availability to regional special education programs influenced the likelihood of private day/residential placements. CSA match rates were also discussed; however, it was noted that localities were responsible for the basic match rate for all educational service categories.

Special Education Services – A Local School Division's Perspective

*Kevin M. Kirst, Director of Special Education and Student Services
Albemarle County Public Schools*

Delegate Bell introduced Mr. Kirst and stated that Mr. Kirst would offer the Advisory Group a local school perspective.

Mr. Kirst stated he was pleased to discuss how Albemarle County was addressing this very serious issue. All school divisions have their own dynamics but there were also commonalities. In Albemarle County, the Board of Supervisors and School Board are very invested in providing educational services in the least restrictive environment to students with disabilities. It is a daily effort to identify and address special education services need in public schools, which is more than just numbers and dollars.

Albemarle has been addressing this issue on a variety of levels because the issue is very complex. Mr. Kirst stated that over the past ten years, Albemarle has implemented a Response to Intervention approach to help students "up front" with academic or behavioral challenges and possibly eliminate the need for special education services. This has caused a plateau in Albemarle's numbers; however, the students that are eligible for special education are much more significantly impaired than those from previous years. It is an entirely different demographic. Albemarle has taken advantage of the Response to Intervention movement to provide the division and funding for intervention specialists. Mr. Kirst noted that he oversees this effort. Mr. Kirst noted that his Division has examined how they

conduct business; for example, it used to be adequate to assign therapists to schools, now it is actually better to assign professionals to zones in schools to facilitate partnerships with other staff members. Albemarle has had to shift and create positions; for children with autism, Albemarle County has hired a third certified behavior analyst to support families and maintain placement in the public school setting. Moreover, additional training/resources were created for paraprofessionals who support teachers for students with autism because they had expressed dissatisfaction with the existing training. This effort led to annual training efforts.

Albemarle has looked at specially designed programs and instructional support for all students, particularly students with intellectual disabilities and autism spectrum disorder. These students receive targeted evidence-based practices. Mr. Kirst noted that relationships were critical and they worked closely with community service boards, their department of social services, and other agencies. When a student is referred to a private day or residential placement, partners get together and try to figure out ways to have the student return to the public school. The need is growing faster than the available resources and the funding. Everything is very delicate; for example, if one teacher trained in intensive intervention for students becomes seriously ill and is out of work, this is a huge issue for the division. Moreover, there are challenges associated with new teachers, turnover, burnout, taking care of staff and teachers who are taking care of these students. Mr. Kirst noted changes in rules and/or funding, e.g., the use of CSA wraparound funds for students with disabilities, can directly affect services to students and families. Mr. Kirst thanked the Advisory Group for the opportunity to speak and offer a public school perspective.

Delegate Bell thanked Mr. Kirst and asked if anyone had any questions. A question was raised as to what it would take to serve all students in the public school setting. Mr. Kirst said space and funding for resources were both significant barriers. The benefits of private day placements were the low student/teacher ratio, space, and staff capacity. Mr. Kirst was asked about additional programs for students with disabilities in Albemarle County. Mr. Kirst stated that Albemarle also had public day programs, access to regional classrooms, and autism and behavioral supports in the public school setting. These additional supports are extremely beneficial to Albemarle County's students.

Ms. Staton noted that IDEA requires there be a continuum of services for students with disabilities. There are students who have challenges intellectually and/or behaviorally who are not mediated by a public school setting. For example, there are students who are born addicted to drugs. Ms. Staton informed the Advisory Group that a normal IQ range is between 85 to 100. However, there are children in the public school setting with IQs of 30 or 40. Special education directors take it very seriously when these children have to be served outside of the public school setting. Ms. Staton noted that in Bedford County, there were partnerships with a variety of public sector agencies so that these children could be educated in the public school settings, to the maximum extent possible. The law acknowledges that the least restrictive setting for some children is a private school or residential setting. These children make gains, are reviewed, and then are brought back to their home schools where they can then be educated in the least restrictive environment. The IEP is designed as a team approach and parents want to know their students improving. Many of these cases are costly; however, the goal is to help these children advance academically.

Another Advisory Group member stated that, in her experience, children placed in private school settings typically return to their home schools as soon as possible. There is a large range as to what is going on in Virginia to serve children with disabilities. Another commenter noted that many students are served quite successfully in the public school setting and the child's IEP should be the determinant as to where the placement should be, not the availability of services in the public school.

Presentation on Two of Virginia's Public Day School Programs – Stafford County Public Schools

*Donna S. Krauss, Assistant to the County Administrator for Human Services,
Stafford County Administrator's Office*

Sue Clark, Director of Special Programs, Stafford County Public Schools

Delegate Bell introduced the representatives from Stafford County and thanked them for their willingness to present on Stafford County's special education programs.

Ms. Donna Krauss and Ms. Clark gave an overview of Stafford County Public Day Schools. Ms. Krauss introduced one of Stafford County's Board members, Ms. Sellers, who serves on the Advisory Group. She also introduced Dr. Bruce Benson, Stafford County's School Superintendent, and Mr. Anthony Romanello, Stafford's County Administrator.

The handouts from the presentation can be located on the Virginia Commission on Youth's website at <http://vcoy.virginia.gov/Presentation%20to%20Advisory%20Committee%20YC.pdf>

Ms. Krauss stated that this effort commenced in 2009. Stafford County created public day schools to provide consistency to students and facilitate greater involvement of agency staff and families. She noted that private providers played a valuable role on the continuum of services. However, Stafford sought to create programs to address the rising need of students with disabilities.

Ms. Clark provided information about Stafford's student population along with the school division's number of students with disabilities. Currently Stafford has over 200 students with autism.

The mission was to create high quality, family centered, community based, and cost effective educational programs and services for children with significant disabilities. The data and numbers supported the need for these programs. The programs offer lower student ratios, intensive staff training requirements, behavioral support assistants, annual memorandums of agreement, and continual collaboration between the school division and Stafford's local government. The issue of space to serve the need of these students was also discussed.

A recommendation was offered that local communities be provided funding incentives through a grant process for educational programming based on a model that is collaborative and creates savings for both local and state government while providing youth an educational option within their home community. This model lowers costs associated with placing youth in alternative educational settings while meeting the needs in a more collaborative community orientated approach.

A question was asked whether Stafford looked at other programs in the Commonwealth to model for program development. Ms. Clark noted that Stafford looked at Albemarle County, Prince William, and some of the Commonwealth's regional special education programs. Ms. Clark also stated that the public day programs adhered to Virginia's requirements for highly qualified staff and student standards. She also discussed the access to online education and other school resources, such as school social workers. However, students primarily benefited from a smaller class size. Mr. Kirst then provided information about Albemarle's public day program, which was created to serve students with emotional disabilities.

A question was asked whether Stafford had seen a decrease in its utilization of private day placements. Ms. Krauss stated yes, that 34 students were served in the public day program and if Stafford County did not have these programs, a majority would be placed in a private day placements. This was

accomplished by discussing the programs with parents and obtaining their consent to return their students back to these programs. Initial savings in the first year were about \$300,000. Each year, Stafford evaluates which students may be able to return from the private day school. Ms. Clark noted that many parents did not want to attempt transitioning students back to the public school. Ms. Clark answered a question about the public school per pupil costs. She noted that the Stafford high school program is approximately \$23,000 per pupil.

Advisory Group Discussion

Findings/Recommendations

The Advisory Group reviewed the draft recommendations prepared by Commission staff. After much discussion and modifications to the draft recommendations, consensus was reached on a majority of the recommendations. The recommendations, as modified by the Advisory Group, are outlined below.

FINDING #1 – THERE ARE CHALLENGES WITH USING CSA WRAP-AROUND SERVICES TO MAINTAIN STUDENTS IN THE LEAST RESTRICTIVE ENVIRONMENT (LRE).

Recommendation Approved by Advisory Group

1. *Request the State Executive Council (SEC) revisit existing policy restrictions and budgetary constraints with Children's Services Act (CSA) state pool funds for wrap around services for students with disabilities. This review will include whether the community match rate could be utilized, existing parental co-payment policies, and the prohibition on using funds for non-educational services provided by school employees, and make recommendations to improve both utilization and access to these funds to the Commission on Youth by the 2017 General Assembly Session.*

FINDING #2 – VIRGINIA'S EXISTING SPECIAL EDUCATION STATE FUNDING STRUCTURE DOES NOT ADEQUATELY MEET THE NEEDS AND INCREASING NUMBERS OF HARD-TO-SERVE, SPECIAL EDUCATION STUDENTS.

Recommendation Approved by Advisory Group

1. *Request the Virginia Department of Education (VDOE) include in its analysis of regional special education programs other states' funding formulas and policies identified during the course of their study that may be employed in the Commonwealth. VDOE shall also determine the efficacy of Virginia's regional special education programs and assess whether provisions are needed to revise these programs and if these programs should be expanded to other regions of the Commonwealth. VDOE shall report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session.*

FINDING #3 – THE UTILIZATION AND COSTS OF PRIVATE PLACEMENTS FOR SPECIAL EDUCATION STUDENTS IN VIRGINIA HAS INCREASED SIGNIFICANTLY.

Recommendations Approved by Advisory Group

1. *Introduce a language-only budget amendment stating that localities may require the local share of the Special Education Private Day Placements come from the localities' school boards' budget, rather than the localities' general government budget. **(The Advisory Group was split on this recommendation.)***
2. *Introduce a budget amendment convening an interagency workgroup to assess the barriers to serving students with disabilities in their local public schools. The workgroup shall assess existing policies and funding formulas including school division's program requirements, localities' composite indices, local CSA match rate allocations, local CSA rate setting practices, the impact of caps on support positions, policies for transitioning students back to the public school, and funding for local educational programming based on models which are collaborative and create savings for both local and state government while providing youth an educational option within their communities. Membership shall include a balance of local and state representative, all impacted state agencies, local education agency (LEA) representatives, local CSA representatives, local government officials, local special education administrators, stakeholder organizations, parent representatives, the Arc of Virginia, and members of the Virginia General Assembly. The workgroup shall make recommendations to the Virginia Commission on Youth prior to the 2017 General Assembly Session.*

3. *Request the Office of Children's Services (OCS) collaborate with VDOE and include a track in their annual conference on best practices and effective strategies for serving children with disabilities in the least restrictive environments and increase knowledge and understanding on working with students with disabilities, as well as improving coordination between schools and CSA.*
4. *Request the OCS include in its annual training plan strategies best practices and effective strategies for serving children with disabilities in the least restrictive environment and increase knowledge and understanding on working with students with disabilities, as well as improving coordination between schools and CSA.*

FINDING #4 – VIRGINIA'S REGIONAL SPECIAL EDUCATION PROGRAMS ALLOW SELECT SCHOOL DIVISIONS TO SERVE STUDENTS IN AN ADDITIONAL OPTION IN THE CONTINUUM OF PLACEMENTS BUT THE EXISTING STRUCTURE NEEDS TO BE RE-EVALUATED.

Recommendation Approved by Advisory Group

1. *Request the VDOE to conduct a study on Virginia's regional special education programs and report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session.*

FINDING #5 – THERE IS NO AVAILABLE DATA ABOUT THE EFFECTIVENESS OF CSA-FUNDED PRIVATE DAY AND RESIDENTIAL PROGRAMS.

Recommendation Approved by Advisory Group

1. *Direct/Request that VDOE work with private providers including the Virginia Association of Independent Specialized Education Facilities, the Virginia Council for Private Education, the Virginia Association of Independent Schools, the Southern Association of Colleges and Schools, the Virginia Coalition of Private Provider Associations, stakeholder groups, and parent representatives to identify and define outcome measures to assess students' progress such as assessment scores, attendance, graduation rates, transition statistics, and return to the students' home schools.*
2. *Direct/Request VDOE establish a procedure requiring all assessment scores for private day students tagged as 'Special Situation' be included in the student's "home" school scores.*
3. *Direct/Request OCS to report annually CANS and CANVaS scores that measure educational outcomes by service placement name and type for all students being served in CSA-funded educational placements.*

FINDING #6 – VIRGINIA'S PARENT CONSENT PROVISIONS EXCEED FEDERAL REGULATIONS AND MAY HINDER SERVING STUDENTS WITH DISABILITIES IN THE LEAST RESTRICTIVE ENVIRONMENT.

Recommendation Approved by Advisory Group

1. *Request VDOE include in the development of the statewide model IEP, an ongoing planning process which facilitates returning students with disabilities served in private placements to the public school setting. The IEP will establish an ongoing process which should commence when a student with a disability is first placed in a private day or residential school. This process should involve the parents, home school officials, CSA officials, the child's teachers, and other involved stakeholders. VDOE shall also include in its guidance to schools best practices for transitioning students from private residential and private day schools such as employing gradual transition strategies and utilization of available community-based programs*

Ms. Atkinson thanked everyone for their participation, and stated that staff would send the Advisory Group participants the revised recommendations and also post them to the Commission's website. The recommendations, and discussion from the Advisory Group meeting, would then be shared with the Commission on Youth at the meeting scheduled for October 20, 2015 at 10:00 a.m. in House Room C at the General Assembly Building. Ms. Atkinson stated that all meetings are open to the public. Public comment would also be received and the Commission would then vote on the proposed recommendations. Ms. Atkinson thanked everyone for their involvement. The meeting was adjourned at approximately 4:40 p.m.